

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

JOHN MARION, INC.,

Plaintiff,

Case No. 06-50687

v.

Honorable Patrick J. Duggan

DARROLL C. TRINKLE,

Defendant.

OPINION AND ORDER

At a session of said Court, held in the U.S.
District Courthouse, Eastern District
of Michigan, on June 11, 2007.

PRESENT: THE HONORABLE PATRICK J. DUGGAN
U.S. DISTRICT COURT JUDGE

Based on a judgment entered in Defendant's criminal case (Case No. 99-80190), Plaintiff is the restitution payee and has obtained writs of continuing garnishment against Defendant's salary.¹ On December 29, 2006, Defendant filed a Motion for Installment of Payments asking the Court for an order allowing installment payments in the amount of \$25.00 per week. Plaintiff filed "Objections to Motion for Installment Payments" on

¹On March 30, 1999, Defendant pled guilty to one count of interstate transport of stolen property, in violation of 18 U.S.C. § 2314. Defendant was sentenced on June 16, 1999 and ordered to pay restitution in the amount of \$160,209.50 to Plaintiff.

As of April 4, 2007, the remaining balance owed by Defendant was approximately \$137,000.00.

January 4, 2007. On January 8, 2007, this Court referred Defendant's motion to Magistrate Judge R. Steven Whalen.

Magistrate Judge Whalen conducted a hearing on Defendant's motion on April 3, 2007. On April 4, 2007, Magistrate Judge Whalen filed his Report and Recommendation ("R&R") recommending that this Court grant Defendant's motion in part and order "that in lieu of garnishment, Defendant may make installment payments in the reduced amount of \$150.00 per week." (R&R at 2). At the conclusion of the R&R, Magistrate Judge Whalen advises the parties that they may object and seek review of the R&R within ten days of service upon them. (*Id.* at 2). Defendant filed objections to the R&R on April 16, 2007.²

Defendant argues that at the April 3, 2007 hearing he mentioned he was falling behind in his bills and during the winter months he is laid off of work. Defendant appears to be objecting the recommended \$150.00 weekly installment payments.

Magistrate Judge Whalen recommended the installment payments of \$150.00 per week based on statements made in Plaintiff's written response to Defendant's motion and statements by Plaintiff at the April 3, 2007 hearing. In his R&R, Magistrate Judge Whalen stated that "[t]o date, the amount recovered under the writs of garnishment has been about \$200.00 per week." (R&R at 1). Furthermore, if this Court were to grant Defendant's request and allow installment payments of \$25.00 per week, it would take

²Defendant is proceeding *pro se* and his objections were filed in a handwritten letter dated April 11, 2007.

Defendant over 105 years to pay the remaining balance.³ On the other hand, installment payments in the amount of \$150.00 per week would give Defendant over 17 and one-half years to pay the remaining balance.⁴ For these reasons, this Court believes that installment payments in the amount of \$150.00 per week are reasonable and concurs with Magistrate Judge Whalen.

Accordingly,

IT IS ORDERED that Defendant's Motion for Installment Payments is **GRANTED IN PART**, and in lieu of garnishment, Defendant is entitled to make installment payments in the amount of \$150.00 per week.

s/PATRICK J. DUGGAN
UNITED STATES DISTRICT JUDGE

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³This is based on the following calculation: \$137,000 (approximate amount of restitution owed) ÷ \$25.00 (requested weekly installment payment) = 5480 (weeks until amount is paid); 5480 ÷ 52 (weeks in a year) = 105.39 (rounded to the nearest hundredth).

⁴This is based on the following calculation: \$137,000 (approximate amount of restitution owed) ÷ \$150.00 (weekly installment payment) = 913.33 (weeks until amount is paid rounded to the nearest hundredth); 913.33 ÷ 52 (weeks in a year) = 17.56 (rounded to the nearest hundredth).